

Steven Bierig (Fact-Finder and Neutral Chair)
Robert E. Bloch (Union Panel Member)
Paul Ciastko (Board Panel Member)

IN THE MATTER OF THE FACT-FINDING BETWEEN: THE BOARD OF EDUCATION OF THE CITY OF CHICAGO AND THE CHICAGO TEACHERS UNION, LOCAL 1, AMERICAN FEDERATION OF TEACHERS, AFL-CIO	ISSUES DETERMINED: <ul style="list-style-type: none">• WAGES• HEALTH CARE• TERM OF AGREEMENT ARB. NO. 19-105
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BOARD OF EDUCATION OF THE CITY OF CHICAGO’S CONCURRENCE

As the Board of Education’s Panel Member, I concur with Fact-Finder and Neutral Chair Steven Bierig’s recommendations as contained in the Fact-Finding Report issued on August 26, 2019.

I. BACKGROUND AND RELEVANT FACTS

On May 20, 2019, Mayor Lori Lightfoot was inaugurated as the 56th Mayor of the City of Chicago. On June 26, 2019, seven distinguished citizens took the oath of office as newly appointed members of the Chicago Board of Education. The CPS Team composed of our new Mayor, our new school board, CEO Janice Jackson, and Chief Education Officer LaTanya McDade, two extraordinary educational leaders, are resolutely committed to enhance investments in our neighborhood schools while also providing teachers and paraprofessionals with a fair compensation package and the classroom supports they need and deserve. The

Neutral's recommendations will help accomplish this. However, before looking at how the Neutral's recommendations can assist the parties in reaching an agreement, it is important to consider the size and scope of CPS' organization, its academic mission, and its recent track record of success – both in terms of academic progress and improved financial status.

CPS is the third largest school district in the nation, serving approximately 361,000 students in 644 schools (513 of the schools are District-run; the others are charter or contract/SAFE schools).¹ CPS' student population has been declining for a number of years; for example, enrollment fell from 400,000 students in the 2012-2013 school year to 371,000 students last year. CPS employs nearly 37,000 individuals, including approximately 21,000 teachers. *Id.* CPS students are a diverse population. Almost 47% of CPS students are Hispanic, 37% are African-American, and 11% are Caucasian. *Id.* Approximately 77% of CPS students come from families who are considered low income and are eligible for free or reduced lunch services, and CPS' current homeless student population is about 5% of total enrollment. *Id.*

CPS' mission is “[t]o provide a high quality public education for every child, in every neighborhood, that prepares each for success in college, career and civic life.”² CPS makes three commitments to its students and families: 1) academic progress; 2) financial stability; and 3) integrity. *Id.* Academic progress means preparing students for success in college, career and community, and requires high quality, rigorous instruction, talented and empowered educators, and safe and supportive schools. *Id.* Financial stability is critical to providing a high-quality education; protecting and improving student achievement must come first when making fiscal decisions.

¹ https://cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx

² https://cps.edu/About_CPS/vision/Pages/mission.aspx

In recent years, CPS has made significant strides in bolstering academic progress while also making substantial headway towards achieving financial stability. For example, on the academic front, the Northwest Evaluation Association Measure of Academic Progress (NWEA MAP) is CPS' primary assessment measure for students in grades 2 through 8. The percentage of elementary school students' reading and math scores at or above the national average has increased every year since 2013.³ For 2018, 89.5% of freshman were on track to graduate up from only 69% in 2011. Dropout rates were cut by more than half in just six years – from 39.8% in 2011 to 18.6% 2017.⁴ Graduation rates have also increased in recent years; the five-year graduation rate in 2017-2018 was nearly 79%—the highest recorded for CPS students.⁵ A study out of Stanford University found that Chicago students were improving faster than students in any other major school districts in the country – Chicago students are getting 6 years' worth of education in 5 years.⁶ In March 12, 2018, a New York Times columnist wrote “if you want to learn how to improve city schools, look how Washington, New Orleans and Chicago are already doing it.”⁷

On the financial front, understanding CPS' current financial situation provides critical context when considering the Neutral's Recommendations. Until FY18 and increased state funding, CPS was on the brink of insolvency. Since then, CPS' financial state has greatly improved, but it is not out of the woods yet. For example, CPS must continue to be vigilant in

³http://blog.cps.edu/wpcontent/uploads/2018/09/2018AcademicReportCard_100218.png

⁴ <https://cps.edu/SchoolData/Pages/SchoolData.aspx>

⁵<https://news.wttw.com/2018/09/03/cps-touts-increased-graduation-rate-acknowledges-workahead>

⁶<https://cepa.stanford.edu/sites/default/files/chicago%20public%20school%20test%20scores%202009-2014.pdf>

⁷ <https://www.nytimes.com/2018/03/12/opinion/good-leaders-schools.html>

addressing its unfunded pension liabilities and long and short-term debt.⁸ Given these significant long-term obligations, it is imperative that the Board continue to stand firm in making fiscally responsible decisions related to the allocation of its limited financial resources among its operating costs (*e.g.* employee wages and health care benefits, staffing levels, etc.).

All that said, the Neutral's recommendations can only serve to bolster CPS's trend line of academic success and renewed financial stability. Indeed, the Neutral's recommendation of a five-year term will provide stability and predictability in both the Board's day-to-day operations and in the classroom thus resulting in continued academic progress. In turn, the Neutral's recommendation on wages and health care will further assist the Board in achieving long-term financial stability.

II. THE FACT-FINDER AND NEUTRAL CHAIR'S RECOMMENDATIONS

A. CONTRACT TERM

The Neutral recommends a five-year term, to which I concur. As the Neutral recognizes, a five-year agreement will best serve both parties' interests by providing much needed stability and predictability. Indeed, no single proposal is more important than the length of the agreement. The reasons are simple and compelling. For the first time in over a decade CPS is not in the midst of a fiscal crisis. For the first time in the history of CPS there is a combination of a new

⁸ Unlike every other school district in Illinois, the state has not historically funded the CPS' teacher pension. The evidence-based funding legislation addressed long-standing pension inequities by requiring the state to pay the normal cost of CPS' annual pension contribution (*i.e.* the portion of the pension contribution that covers currently incurred costs rather than legacy liabilities). However, while the state now provides funding to cover normal costs, local resources must cover the unfunded liability and the remainder of the statutorily required employer contribution. In total in FY19, CPS paid \$809M in teacher pension contributions. For FY20, CPS will be required to pay \$855M in pension contributions, with only \$257M of those dollars coming from the State. CPS also carries \$8.4B in outstanding long-term debt and borrowed \$1.5B in short-term debt. The debt service budget in FY19 required \$607M to pay interest and principal on bonds and is primarily funded through state revenues and the Personal Property Replacement Tax revenues. For FY20, the debt service on long-term and short-term debt is projected to be \$700M and \$12M respectively.

Mayor, a new school board and CPS leaders who are educators and who have come from CPS. There exists an historic and unique opportunity to make extraordinary and positive changes for the benefit of CPS students, teachers, support staff, families, communities and taxpayers. However, none of this is easy and none of this can happen unless there is the time to engage all the stakeholders—including CTU—to formulate a plan, implement a plan, and assess its success. Any plan will include many of CTU's demands—staffing, community schools, expansion of early childhood programs, a racial equity council, expanding career and technical education and more. But for this to occur it is essential that all stakeholders have the stability of a long-term agreement; the predictability of a long-term financial plan; and the flexibility to implement and modify innovative educational initiatives without the constraints of restrictive contract language. A five-year agreement gives everyone—including CTU—the space to do all of that; anything less does not.

As outlined below, a five-year agreement also allows for substantial increases in salaries to be affordably spread over five years. Indeed, CTU members will have the financial security of knowing their pay raises are locked in for the next five years. Likewise, having salary costs codified for five years enables the Board to more accurately project out its financial future and balance its budget which is critical to CPS' continued success.

B. WAGES

The Neutral recommends the following wage increases over a five-year agreement:

School Year	COLA
2019-2020	3.00%
2020-2021	3.00%
2021-2022	3.00%
2022-2023	3.50%
2023-2024	3.50%
Total	16.00%

I concur with this recommendation. Just as a picture may be worth a thousand words, the following three cost-out charts clearly summarize the net effect of the Neutral's generous wage recommendation.

Salary Increases from the Fact-finder's Recommendation (3.0-3.0-3.0-3.5-3.5%)	
Average increase in salaries for all teachers	\$ 19,008
Average % increase, compared to FY19 salaries	24.3%
Median % increase¹	20.9%
Average Salary accumulated over 5 years from CPS Proposal	\$ 54,525
Over the next 5 years, 50% of employees will...	
Earn at least \$18,167 more	
Earn an average of \$21,749 more	
Earn an average of 33.71% more	
Over the next 5 years, 60% of employees will...	
Earn at least \$17,096 more	
Earn an average of \$20,949 more	
Earn an average of 28.57% more	
Over the next 5 years, 70% of employees will...	
Earn at least \$16,417 more	
Earn an average of \$20,129 more	
Earn an average of 25.54% more	
¹ Employees sorted by step experience	

An example of how the Neutral's recommendation would affect the salary of a 5th year teacher with a bachelor's degree:

Lane 1, Step 5 Teacher ¹ - baseline increase of 3-3-3-3.5-3.5% COLA						
	FY2019 (year0)	FY2020 (year1)	FY2021 (year2)	FY2022 (year3)	FY2023 (year4)	FY2024 (year5)
Annual Salary	\$ 58,315	\$ 62,495	\$ 66,940	\$ 71,518	\$ 76,591	\$ 81,702
By Paycheck... ²						
Salary	\$ 2,818	\$ 2,916	\$ 3,037	\$ 3,166	\$ 3,294	\$ 3,423
Step Increase	\$ 98	\$ 122	\$ 129	\$ 129	\$ 129	\$ 122
COLA ³	\$ -	\$ 87	\$ 181	\$ 282	\$ 407	\$ 541
Gross Salary	\$ 2,916	\$ 3,125	\$ 3,347	\$ 3,576	\$ 3,830	\$ 4,085
Total salary	\$ 58,315	\$ 62,495	\$ 66,940	\$ 71,518	\$ 76,591	\$ 81,702

¹ 208 day teacher

² 20 paychecks in a year

³ 3%, 3%, 3%, 3.5%, 3.5% COLA for FY20-24

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Lane 1, Step 5 Teacher							
	FY2019 (year0)	FY2020 (year1)	FY2021 (year2)	FY2022 (year3)	FY2023 (year4)	FY2024 (year5)	5 year percentage raise
Total salary with 3-3-3-3.5-3.5% COLA and steps	\$ 58,315	\$ 62,495	\$ 66,940	\$ 71,518	\$ 76,591	\$ 81,702	40%
Healthcare cost (HMO, Family), Fact-finder Recommendation	\$ 1,458	\$ 1,562	\$ 1,673	\$ 1,967	\$ 2,298	\$ 2,860	
Healthcare cost (PPO, Family), Fact-finder Recommendation	\$ 2,041	\$ 2,187	\$ 2,343	\$ 2,682	\$ 3,064	\$ 3,677	
Healthcare cost (HSA, Family), Fact-finder Recommendation	\$ 1,166	\$ 1,250	\$ 1,339	\$ 1,609	\$ 1,915	\$ 2,451	
Healthcare cost (HMO, Family), Status quo	\$ 1,458	\$ 1,562	\$ 1,673	\$ 1,788	\$ 1,915	\$ 2,043	
Healthcare cost (PPO, Family), Status quo	\$ 2,041	\$ 2,187	\$ 2,343	\$ 2,503	\$ 2,681	\$ 2,860	
Healthcare cost (HSA, Family), Status quo	\$ 1,166	\$ 1,250	\$ 1,339	\$ 1,430	\$ 1,532	\$ 1,634	
Impact of total 1.0% increase in year 3-5 emp. Healthcare cont.	\$ -	\$ -	\$ -	\$ (179)	\$ (383)	\$ (817)	-1%
Cumulative pay increase	\$ 67,668	over 5 years					
Impact of increase in healthcare contribution	\$ (1,379)	over 5 years					
Total change	\$ 66,289	over 5 years					

An example of how the Neutral's recommendation would affect the salary of a 10th year teacher with a bachelor's degree:

Lane 1, Step 10 Teacher ¹ - baseline increase of 3-3-3-3.5-3.5% COLA						
	FY2019 (year0)	FY2020 (year1)	FY2021 (year2)	FY2022 (year3)	FY2023 (year4)	FY2024 (year5)
Annual Salary	\$ 75,083	\$ 79,579	\$ 83,835	\$ 87,939	\$ 92,372	\$ 95,605
By Paycheck... ²						
Salary	\$ 3,633	\$ 3,754	\$ 3,866	\$ 3,960	\$ 4,039	\$ 4,107
Step Increase	\$ 122	\$ 112	\$ 93	\$ 79	\$ 68	\$ -
COLA ³	\$ -	\$ 113	\$ 232	\$ 358	\$ 512	\$ 673
Gross Salary	\$ 3,754	\$ 3,979	\$ 4,192	\$ 4,397	\$ 4,619	\$ 4,780
Total salary	\$ 75,083	\$ 79,579	\$ 83,835	\$ 87,939	\$ 92,372	\$ 95,605

¹ 208 day teacher

² 20 paychecks in a year

³ 3%, 3%, 3%, 3.5%, 3.5% COLA for FY20-24

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Lane 1, Step 10 Teacher							
	FY2019 (year0)	FY2020 (year1)	FY2021 (year2)	FY2022 (year3)	FY2023 (year4)	FY2024 (year5)	5 year percentage raise
Total salary with 3-3-3-3.5-3.5% COLA and steps	\$ 75,083	\$ 79,579	\$ 83,835	\$ 87,939	\$ 92,372	\$ 95,605	27%
Healthcare cost (HMO, Family), Fact-finder Recommendation	\$ 1,877	\$ 1,989	\$ 2,096	\$ 2,418	\$ 2,771	\$ 3,346	
Healthcare cost (PPO, Family), Fact-finder Recommendation	\$ 2,628	\$ 2,785	\$ 2,934	\$ 3,298	\$ 3,695	\$ 4,302	
Healthcare cost (HSA, Family), Fact-finder Recommendation	\$ 1,502	\$ 1,592	\$ 1,677	\$ 1,979	\$ 2,309	\$ 2,868	
Healthcare cost (HMO, Family), Status quo	\$ 1,877	\$ 1,989	\$ 2,096	\$ 2,198	\$ 2,309	\$ 2,390	
Healthcare cost (PPO, Family), Status quo	\$ 2,628	\$ 2,785	\$ 2,934	\$ 3,078	\$ 3,233	\$ 3,346	
Healthcare cost (HSA, Family), Status quo	\$ 1,502	\$ 1,592	\$ 1,677	\$ 1,759	\$ 1,847	\$ 1,912	
Impact of total 1.0% increase in year 3-5 emp. Healthcare cont.	\$ -	\$ -	\$ -	\$ (220)	\$ (462)	\$ (956)	-1%
Total pay bump due to 3-3-3-3.5-3.5% COLA	\$ 63,914	over 5 years					
Impact of increase in healthcare contribution	\$ (1,638)	over 5 years					
Total change	\$ 62,276	over 5 years					

Even a cursory review of the above cost-outs shows there is little, if any, room to even debate whether the employees would be receiving a fair and equitable wage increase under the Neutral’s recommendation. This is especially true when viewing the recommended percentage increases in light of the projected CPI (2.1% on average over the five-year term), nominal health care contribution increases (totaling just 1% over the last three years of a five-year term) and how CPS salaries compare against other large urban school districts. To expect the Board to agree to much if anything more could jeopardize CPS’ on-going efforts to maintain financial stability.

C. HEALTH CARE

Rising health care costs for employers are almost as certain as death and taxes. As the Board noted in its presentation to the Fact-Finding Panel, CPS projects that its health care costs will increase by 6% annually over the next five years, costing the Board an additional \$116M over the five-year agreement. Despite these rising costs, the Board proposed to maintain the current plan design for five full years, including no increases to co-pays, deductibles, plan choices or out-of-pocket costs. The Board also proposed only to increase the employee contribution rates by a very modest 0.5% for each of the last three years of its proposed 5-year agreement. Currently, employees pay a percentage of base salary depending on plan selected and category of coverage.

	HMO	PPO	HSA
Single	2.10%	3.0%	0.00%
Employee + 1	2.28%	3.25%	1.00%
Family	2.50%	3.5%	2.0%

These increases in health care costs would have minimal impact on each employee. Specifically, the individual impact of the increase for an employee would be only 1.5% over five

years while 70% of CTU's members stand to receive salary increases of 25% or more under the Neutral's recommendation on wages.

Despite the nominal increases proposed by the Board, the Neutral recommends that the Board's proposed increases be limited even further to just .25% in years three and four of the agreement and .5% in the last year of the agreement, for a total increase of only 1% over the five-year term. As with wages, the Neutral's recommendation on health care will put additional pressure on CPS' finances. Nevertheless, I concur with his recommendation as I think CPS should be able to absorb the added cost of the Neutral's reduction to the Board's health care proposal over course of a five-year term.

I also concur with the Neutral's recommendation adopting the Board's proposal to increase contribution ceiling levels from \$90,000 to \$130,000. As the Neutral rightfully determined, "employees who earn greater amounts should have to shoulder a higher rate of the burden." Fact-Finding Report, p. 106.

III. MATTERS REMANDED TO THE PARTIES

The Neutral recommends that the following issues be remanded to the parties for further negotiations:

- CAREER AND TECHNICAL EDUCATION
- PAID TIME OFF
- PAPERWORK, LESSON PLANS AND TESTING
- SANCTUARY SCHOOLS
- SPORTS
- SUBSTITUTE TEACHERS
- SUSTAINABLE COMMUNITY SCHOOLS
- TEACHER EVALUATION
- TEACHER PREPARATION TIME
- TEACHER SUPPLY MONEY

I concur with the Neutral on this recommendation. I share his belief that given the parties' experienced negotiators and representatives are far more familiar with the intricacies

of the proposals, it is more efficient for the parties, who possess a more complete knowledge and expertise of the issues, to resolve these questions. Indeed, after the fact-finding hearing on July 18-19th, the parties have continued to bargain over the above issues and have since reached a tentative agreement on sanctuary schools. Moreover, given that CPS and CTU share many of the same interests in resolving their differences over these issues, I am confident that with continued negotiations the parties will reach agreement on the remanded issues in the near future.

IV. MATTERS OUTSIDE THE FACT-FINDER'S JURISDICTION

The Neutral also found that pursuant to the Illinois Educational Labor Relations Act (IELRA), the following issues are not within the jurisdiction of the Fact-Finder:

- AFFORDABLE HOUSING
- CLASS SIZE
- CLINICIANS AND COUNSELORS
- EARLY CHILDHOOD EDUCATION
- PSRP ISSUES
- SCHOOL CLOSINGS
- SPECIAL EDUCATION
- STAFFING

I concur with the Neutral's finding. Section 4.5 of the IELRA makes the above subjects of bargaining permissive for CPS. The subjects of bargaining listed in Section 4.5(a) include decisions to:

- Subcontract services performed by bargaining unit employees;
- Layoff or reduce in force employees;
- Determine class size, class staffing and assignment;
- Determine class schedules and the academic calendar;
- Determine the length of the work and school day and year;
- Determine hours and places of instruction; and
- Determine pupil assessment policies.

115 ILCS 5/4.5(a).

Decisions regarding these subjects are solely within the discretion of the Board, which may implement changes on any of these topics subject only to the duty to bargain over the impact of such decisions. In the event a dispute or impasse arises during impact bargaining over Section 4.5 subjects, the IELRA mandates that the dispute be resolved through a separate dispute resolution procedure. The IELRA concludes that: “Neither the [IELRB] nor any mediator or fact-finder appointed pursuant to subsection (a-10) of Section 12 of this Act shall have jurisdiction over such a dispute or impasse.” 115 ILCS 5/4.5(b). In sum, the Neutral correctly decided that he lacks jurisdiction to hear or decide the above-referenced Section 4.5 issues.

Notwithstanding the IELRA’s prohibitions, CPS has been negotiating with CTU on a number of these issues, most notably: staffing, class size, clinicians and counselors, and special education. More importantly, the Board recently strengthened its commitment to increasing clinician staffing levels. On July 30th, Mayor Lightfoot and Dr. Jackson announced a series of investments over the next five years that will expand school resources and improve equity for students by increasing staffing, and strengthening career and technical education programming.⁹ For example, to meet the needs of both special education and general education students:

- CPS will add at least 200 more school social worker positions to CPS schools over the next five years.
- CPS will add at least 250 additional full-time nurse positions over the next five years, so every CPS school has access to full-time, stable nursing services. At the same time, CPS will cut its reliance on contract nurses in half so that contractors are only used in supplemental and substitute roles. To meet this need for certified school nurses, health services nurses, and licensed practical nurses, CPS will work with stakeholders including the CTU to develop a plan to increase the pipeline of nurses to fill these positions.

⁹ https://www.cps.edu/News/Press_releases/Pages/PR2_07_30_19.aspx

- Over the next three years, CPS will increase the number of special education case manager positions at schools with relatively high numbers of diverse learners. By the 2021-2022 school year, schools with 240 or more students with IEPs (Individualized Education Program) will have at least 2 full-time case managers; schools with more than 120 students with IEPs will have at least one full-time case manager; and schools with more than 50 students with IEPs will have at least one part-time case manager.

CTU, however, says this is still not enough and that the Mayor and Dr. Jackson’s staffing commitment needs to be memorialized in the parties’ agreement. And this is where the parties differ on permissive subjects of bargaining. In other words, where the Union and CPS part ways on these important issues is not *whether* CPS should commit to them but *where and how* that commitment should be made. The Union argues that these and other important education initiatives should be “enshrined” in the collective bargaining agreement and subject to its grievance and arbitration process. The CPS Team disagrees. We believe these issues profoundly affect not only teachers, but also students, families, community groups and taxpayers, and thus should be decided by the duly constituted school board after an open and transparent process where the various stakeholders provide their input.

There exists an historic opportunity to expand the discussion and ultimately the resolution of these permissive issues (*e.g.*, staffing, class size, special education) by including all the stakeholders under the leadership of the CPS Team and with the input of the CTU. But leaving these important issues *solely* to the collective bargaining process and *solely* in the collective bargaining agreement, and thereby excluding all other stakeholders, will not produce the best outcomes for the very group on whom these efforts are focused – the students. The Neutral also recognized as much when he stated “[f]urther, and perhaps most importantly, I have considered the needs of not just the Board and the Union, but also the students, Teachers and

all affected individuals in this process.” Fact-Finding Report, p. 101. Going forward, I encourage CTU’s representatives to take the same approach as our esteemed Neutral when bargaining over these permissive issues.

V. CONCLUSION

Mr. Bierig is a seasoned neutral, skilled in dissecting the parties’ claims and evidence according to governing principles. His analysis was thoughtful and persuasive, taking into account both parties’ interests. Moreover, his recommendations benefit not only CPS and CTU but all those concerned--students, parents, families and the community at large.

I am optimistic that if CTU also accepts the Neutral’s recommendations on these most difficult of issues (Term, Wages and Health Care), the parties will be well-positioned to quickly resolve the remaining issues so that all involved may return to focusing on what matters most--preparing students for success in college, career and community by providing high quality, rigorous instruction, talented and empowered educators, and safe and supportive schools. Towards that end, the CPS Team remains committed to the task at hand and will continue working closely with CTU to reach an agreement as expeditiously as possible.

Respectfully submitted,

Board of Education of the City of Chicago

/s/ Paul Ciastko

Paul Ciastko

Labor Relations Managing Attorney

Fact-Finding Panel Member